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8 IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON  
9 IN AND FOR KING COUNTY

10 TOWN OF WOODWAY and SAVE  
11 RICHMOND BEACH, INC., a Washington  
non-profit corporation,

12 Petitioners,

13 v.

14 SNOHOMISH COUNTY and BSRE POINT  
15 WELLS, LP

16 Respondents.  
17

No.

COMPLAINT FOR DECLARATORY  
JUDGMENT AND INJUNCTION

18 COME NOW the Petitioners, the Town of Woodway and Save Richmond Beach, Inc.,  
19 and allege as follows:

20 **I. INTRODUCTION**

21 Petitioners, the Town of Woodway and Save Richmond Beach, bring this action for  
22 declaratory judgment and injunctive relief under Chapter 7.24 RCW and Chapter 7.40 RCW.  
23 Petitioners seek a declaration that the “urban center” development application submitted by  
24 Defendant-BSRE Point Wells has not vested to Snohomish County’s urban center development  
25 regulations and land use designation for the Point Wells site, which were adopted in violation of  
26

1 SEPA and GMA. Petitioners also seek an order enjoining the County from processing the urban  
2 center land use permits filed by BSRE under the existing regulations..

## 3 **II. PARTIES**

4 1. The Town of Woodway ("Woodway") is an optional municipal code city  
5 organized and existing under the laws of the State of Washington. Woodway is located in  
6 Snohomish County.

8 2. Save Richmond Beach, Inc., is a Washington non-profit corporation. .Save  
9 Richmond Beach is a community organization composed of individual residents in Woodway  
10 and the Richmond Beach area of the City of Shoreline, located just south of the King County  
11 border adjacent to Woodway. Save Richmond Beach and its members are dedicated to  
12 preserving quality of life in Richmond Beach, Woodway and surrounding neighborhoods through  
13 responsible, sustainable planning.

15 3. Snohomish County (the "County") is a Washington County organized and  
16 existing under the laws of the State of Washington.

18 4. BSRE Point Wells, LP ("BSRE"), is the owner of certain property located in  
19 Snohomish County adjacent to Woodway. This property is generally known as Point Wells.

## 20 **III. JURISDICTION AND VENUE**

21 5. This Court has subject matter jurisdiction over this action pursuant to Chapter  
22 7.24 RCW and Chapter 7.40 RCW.

23 6. Venue is proper in King County, Washington, pursuant to RCW 4.12.025 and  
24 RCW 36.01.050.

## 26 **IV. FACTUAL BACKGROUND**

1           7. Point Wells is a 61-acre site located on Puget Sound in unincorporated  
2 Snohomish County immediately north of the King/Snohomish County boundary. The site is  
3 bordered on three sides by the Town of Woodway with Puget Sound on the west. The site is  
4 immediately north of the City of Shoreline and the Richmond Beach neighborhood. The only  
5 vehicular access to Point Wells is a two-lane local road running to the south through Woodway  
6 and then through the Richmond Beach neighborhood in King County

8           8. Point Wells has been the site of petroleum-based industrial use for a hundred  
9 years. For the past decade, Snohomish County, Woodway and successive owners of Point Wells  
10 have discussed a possible change of use.

12           9. On August 12, 2009, the County adopted ordinances amending its  
13 Comprehensive Plan policy and land use map to allow the redesignation of Point Wells from  
14 Urban Industrial to Urban Center.

16           10. The members of Save Richmond Beach use the public amenities in the  
17 communities adjacent to Point Wells on a daily basis, including streets, schools, parks, libraries,  
18 and other City- or County- services. Many of these members regularly walk or drive the  
19 residential roads along Richmond Beach Road/NW 195<sup>th</sup> Street, 20<sup>th</sup> Ave. NW/Timber Lane, and  
20 Richmond Beach Drive NW, and many of them live on or adjacent to these roads. Because these  
21 roads currently provide the only access to Point Wells, all of the members who rely or live on  
22 them stand to be adversely impacted by the intensive development that the “Urban Center” re-  
23 designation would allow. Such intensive development will lead to increased traffic congestion in  
24 the Richmond Beach neighborhood, which does not have adequate transportation infrastructure  
25 or public facilities to support development on an “Urban Center” scale. This will also lead to  
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1 increased light- and noise-pollution, air pollution, traffic accidents, crime, and other health and  
2 safety hazards. In sum, the re-designation of Point Wells as an "Urban Center" poses a very real  
3 threat to the property interests and quality of life of the Petitioners.

4  
5 11. The Town of Woodway and Save Richmond Beach, along with the City of  
6 Shoreline, filed an appeal with the Growth Management Hearing Board, Central Puget Sound  
7 Region ("Board"), challenging the County's ordinances as well as the SEPA process utilized by  
8 the County. BSRE was granted permission to intervene.

9  
10 12. Subsequently, on May 12, 2010, the County adopted ordinances which amended  
11 its development regulations for urban centers to, among other things, accommodate the Point  
12 Wells designation.

13  
14 13. Again, Woodway, Save Richmond Beach and the City of Shoreline filed an  
15 appeal with the Board challenging this action as well as alleging defects in the SEPA process.  
16 Once again, BSRE was permitted to intervene. Both challenges were consolidated for hearing.

17  
18 14. On April 26, 2011, the Board issued its Final Decision and Order ("FDO") for  
19 the challenges specified above. No appeal was made of this FDO.

20  
21 15. The FDO provided, in part, that the County's designation of Point Wells as  
22 Urban Center violated the Growth Management Act ("GMA") and was declared invalid. The  
23 Board also found that the County failed to comply with SEPA with respect to the Comprehensive  
24 Plan amendments as well as the amendments to the development regulations. Under SEPA, this  
25 means the development regulations are void. The Board ordered that the County comply with  
26 both GMA and SEPA.

1           16.     On or about March 4, 2011, subsequent to the hearing on the Board challenge but  
2 prior to the Board's Final Decision and Order, BSRE filed applications to subdivide the Point  
3 Wells property and develop it as an urban center with approximately 3,000 residential units and  
4 100,000 square feet of retail space (collectively, the "BSRE Permit Application").  
5

6           17.     In response to the BSRE Permit Application, Save Richmond Beach sent a letter  
7 to Snohomish County explaining why the application was incomplete and should not be  
8 considered vested to the Comprehensive Plan amendments and development regulations adopted  
9 in violation of both GMA and SEPA. In order to comply with the FDO and avoid harm to Save  
10 Richmond Beach's members, the letter requested that the County not process the BSRE Permit  
11 Application under the existing development regulations, which are void.  
12

13           18.     Pursuant to the County's own development regulations, an urban center  
14 development application is automatically deemed complete if the County does not act on the  
15 application or request additional information within 28 days. Snohomish County took no action  
16 on the BSRE Permit Application within the requisite time period, deeming it complete by  
17 default. This action or inaction is not appealable under the County's development regulations or  
18 other administrative remedies  
19

20           19.     Both the County and BSRE consider the BSRE Permit Application complete and  
21 therefore, vested to the ordinances that were found invalid under GMA and void under SEPA.  
22 The County continues to process the BSRE Permit Application under the invalid and/or void  
23 ordinances. Petitioners stand to be aggrieved or adversely affected by Snohomish County's  
24 actions.  
25

26                   **V. CLAIM FOR DECLARATORY RELIEF**

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2 20. Petitioners hereby reallege paragraphs 1 through 19 and incorporate them by  
3 reference.

4 21. The Petitioners hereby seek a declaration from the Court pursuant to RCW  
5 7.24.010, et seq., that the BSRE Permit Application is not vested to the Snohomish County land  
6 use designation and development regulations adopted in violation of SEPA and GMA, as  
7 adjudged by the Board in its April 26, 2011 FDO.  
8

9 22. A judgment or decree as sought by Petitioners will terminate this controversy or  
10 remove an uncertainty regarding the same as set forth in RCW 7.24.050.

11 **VI. PRAYER FOR RELIEF**

12 WHEREFORE the Petitioners pray for relief as follows:

13 a. A Declaration and judgment that the BSRE Permit Application is not vested to the  
14 Snohomish County land use designation and development regulations adopted in violation of  
15 SEPA and GMA, as adjudged by the Board in its April 26, 2011 FDO.  
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17 b. That the Court issue, as necessary, an injunction restraining Snohomish County  
18 from processing the BSRE Permit Application unless and until the County has complied with  
19 SEPA and GMA with regard to the enactment of urban center development regulations and  
20 Comprehensive Plan designations for the Point Wells property, as ordered by the Board.  
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22 c. For such other and further relief as the Court deems just and proper.  
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1 DATED this 1<sup>st</sup> September  
2 day of August, 2011.

3 OGDEN MURPHY WALLACE, P.L.L.C.

4 By Wayne D. Tanaka  
5 Wayne D. Tanaka, WSBA #6303  
6 Attorney for Petitioner Town of Woodway

7 GRAHAM & DUNN, PC

8 By: Zachary R. Hiatt  
9 Zachary R. Hiatt, WSBA #38118  
10 Attorney for Petitioner  
11 Save Richmond Beach

12 TOWN OF WOODWAY

13 By: Eric Faison  
14 Eric Faison, Woodway Town Administrator


15 STATE OF WASHINGTON )

16 COUNTY OF SNOHOMISH)

17 I, Eric Faison, Town Administrator for the Town of Woodway, certify that the events  
18 and/or acts described in this document are true and correct as described.

19 DATED: September 7, 2011

20  
21  
22 Joyce K. Bielefeld  
23 Notary Public  
24 Joyce K. Bielefeld  
25 Print Name  
26 My appointment expires: August 29, 2013



SAVE RICHMOND BEACH

By:

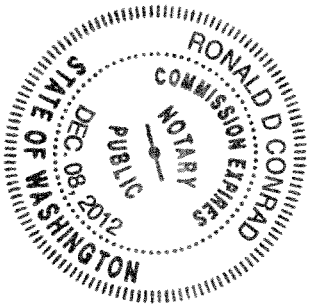
Catherine Holt  
Catherine Holt, Director Save Richmond Beach

STATE OF WASHINGTON )

COUNTY OF SNOHOMISH)

I, Catherine Holt, certify that the events and/or acts described in this document are true and correct as described.

DATED: 9/6/2011



Notary Public

RONALD D. CONRAD

Print Name

My appointment expires: DEC 8, 2012